THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 14984 OF 2004

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22nd December, 2005

Between:

Jeeru Suryanarayana Reddy …Petitioner

A n d

1. Secretary, Revenue Department,

Government of A.P. Secretariat, Hyderabad

and another

…Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 14984 OF 2004

O R D E R :

1. This writ petition has been filed assailing Memo No. 116439/FF.1/A2/2003, dated 19-4-2004 issued by Secretary to Government, Revenue Department, Government

of A.P. Secretariat, Hyderabad-1st respondent.

2. It is the case of the petitioner that he is an eligible person to claim pension under A.P. Freedom Fighters Pension Rules and accordingly an application has been submitted to the authorities. It is his further case that when the authorities have not properly considered his application, he approached this Court by filing writ petition being W.P No. 21326 of 1998 and sought for necessary directions. The said writ petition came to be disposed of on 12-11-2002 with the following directions.

> "*In view of the above, the Writ Petition is allowed. T he impugned order dated 2-6-1994 is set aside and the respondents are directed to reconsider the petitioner's request for grant of Freedom Fighters' Pension on the basis of the various documents filed by him and dispose of the same in accordance with law within a period of four months from the date of receipt of a copy of this order. It is also open to the petitioner herein to submit any fresh evidence in support of his claim".*

3. When the direction has not been carried out, a contempt case being C.C.No.177 of 2004 has been filed by him. The contempt case came to be closed on 26-4-2004. The order passed in the Contempt Case read as follows:

> "*However, the learned counsel Mr. B.Gajendra Reddy submits that no valid grounds are assigned for rejection of the claim of the petitioner. The validity or otherwise of the order cannot be subject matter of this contempt case. Inasmuch as the orders are passed, it cannot be said that the respondents violated the orders passed by this Court.*
>
> *Accordingly, the contempt case is closed. It is open for the petitioner to challenge the validity of the order dated 19-04-2004".*

4. The present petition has been filed challenging the order dated 19-04-2004.

5. Heard learned counsel for the petitioner and learned Government Pleader for Revenue appearing for respondents.

6. Learned counsel for the petitioner submits that the 1st respondent without looking into the certificate placed on record, proceeded to issue Memo impugned in the writ petition rejecting the claim of the petitioner for sanction of Freedom Fighters

Pension. He further submits that when the petitioner attended with the original certificate issued by the S.Jaganatha Rao, co-prisoner, it has not been looked into by the concerned authority. The order impugned in the writ petition does not speak of the petitioner placing on record the certificate issued by S.Jaganatha Rao who is said to be a co-prisoner. Under Rule 5 of A.P. Freedom Fighters Pension Rules what is required is, applicant has to place on record with necessary proof to show that he suffered imprisonment not less than seven days as undertrial for participation in the freedom struggle or he has remained underground for not less than 3 months but did not suffer imprisonment provided he was (i) proclaimed offender; or, ii) one on whom an award for arrest was announced but was not arrested; or iii) one for whose detention order was issued but not served. How, the proof is to be placed is also indicated in the Rule.

7. It is apposite to refer Rule 5 of the A.P. Freedom Fighters Pension Rules and it is thus:

> *In these Rules, an "eligible freedom fighter" means- a) A person who was convicted and suffered imprisonment for the cause of feedom or suffered preventive detention under the orders of the Competent Authority for participation in the Freedom struggle, before the 15th August, 1947 in the Andhra Area of the State and 17th September, 1948 in the Telangana Area of the State.b) A person who suffered imprisonment not less than seven days as undertrial for participation in the freedom struggle or a person who remained underground for not less than 3 months but did not suffer imprisonment provided he was (i) proclaimed offender; or , ii) one on whom an award for arrest was announced but was not arrested; or iii) one for whose detention order was issued but not served".*

8. On plain reading of the Memo impugned in the writ petition indicates that the petitioner has not placed the original certificate as proof of his suffering imprisonment as required under Rule 5. Therefore, 1st respondent cannot be found fault in issuing the Memo impugned in the writ petition. However, the petitioner is at liberty to make a fresh application placing on record necessary documents and there upon the concerned authorities are required to pass appropriate orders in accordance with law.

9. Accordingly, this writ petition is disposed of giving liberty to the petitioner to make a fresh application. No order as to costs.

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Justice B.Seshasayana Reddy

22nd December, 2005

C.C. in three days

B/o

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